05-04-05



PATENT Customer No. 22,852 Attorney Docket No. 9131.0018-00

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:)
WAITE, James W. et al.) Group Art Unit: 2857
Serial No.: 10/622,376) Examiner: TSAI, Carol S. W.
Filed: Ju	uly 18, 2003)) Confirmation No.: 4368
D E S	METHOD AND APPARATUS FOR DIGITAL DETECTION OF ELECTROMAGNETIC SIGNAL TRENGTH AND SIGNAL DIRECTION))))
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MAIL STOP AMENDMENT

Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450

Sir:

RESPONSE TO RESTRICTION REQUIREMENT AND APPLICANTS STATEMENT OF INTERVIEW SUMMARY

In a restriction requirement dated January 31, 2005, the period for response having been extended to April 30, 2005 (a Saturday) by a request for extension of three months. The Examiner required restriction under 35 U.S.C. § 121 between Group I, the species best illustrated by claims 1-37, and Group II, the species best illustrated by claims 38-49. Applicants provisionally elect to prosecute Group I, claims 1-37, with traverse.

In response to a telephone conversation with the Examiner on December 8, 2004, with the undersigned. A written restriction requirement was requested with hope of obtaining the Examiner's reasoning for this restriction. However, the Examiner restricted the claims with no reasons for the distinction between the claims being given.

The Examiner has not met the burden of identifying the reasons for this restriction requirement. As is stated in the MPEP, "Examiners <u>must</u> provide reasons and/or examples to support conclusions . . ." MPEP 803.01. As explained in the MPEP, "[f]or purposes of the initial requirement, a serious burden on the examiner may be *prima facie* shown if the examiner shows by appropriate explanation of separate classification, or separate statues in the art, or a different field of search as defined in MPEP § 806.04(a) - § 806.04(i) and § 808.01(a)." MPEP 803.01. The Examiner has done none of this, simply stating that the claims are split into two species with no further explanation.

Further, a simply comparison of claim 1 (from "species I") and claim 38 (from "species II") illustrate that they are related and that no extra searching is required for claim 38 over that done for claim 1. Claim 1 recites:

A locator receiver, comprising:

at least one processing channel including an electromagnetic field detector, an analog processor coupled to receive signals from the electromagnetic field detector, and a digital processor coupled to receive signals from the analog processor and calculate a signal strength parameter and a modulated signal,

wherein the digital processor includes an analog-to-digital converter, a digital phase-locked loop coupled to receive the output signal from the analog-to-digital converter and provide the signal strength parameter, and a nested digital phase-locked loop coupled to the phase-locked loop to provide the modulated signal.

Claim 38 recites:

A locator receiver, comprising:

a first digital phase-locked loop with a first numerically controlled oscillator coupled to receive a signal and provide a first phase related to a first frequency; and

a second digital phase-locked loop with a second numerically controlled oscillator coupled to receive the signal and provide a second phase related to a second frequency. In fact, it appears that claim 38 is generic to claim 1. Both claims include limitations to nested digital phase-locked loops in a locator receiver while claim 1 includes further processing limitations.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW, GARRETT & DAJNNER, L.L.P.

Dated: May 2, 2005

Gary J. Edwards

Reg. No. 41,008

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